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## State

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Posted on Mon, Feb. 27, 2006

# Bill would prohibit direct wine sales from Ky. wineries

 By Bruce Schreiner  
ASSOCIATED PRESS

**FRANKFORT** - Harriet Allen has spent years nurturing row after row of grapevines springing from fertile Kentucky soil once prized for producing tobacco.

Once the grapes are turned into wine, Allen sells her vintages to people visiting an 18th-century farmhouse at her Talon Winery & Vineyards in Fayette County.

There's a new and growing segment of her business that comes from direct wine sales to restaurants and liquor stores in Lexington, Louisville and Northern Kentucky.

There's no middleman involved, which is the way Allen likes it.

"We're in the infancy of our development of a wine industry in Kentucky," said Allen, who bought the farm in 1998 with her husband, Charles Tackett, a former judge. "Our volumes are so small that we have to do a lot of things ourselves."

But Kentucky's wineries are at risk of losing the right to distribute directly to retailers. A bill before the Kentucky General Assembly would require in-state wineries to go through wholesalers, just like producers of beer or spirits.

If the bill becomes law, Allen said the results would be staggering for Kentucky's approximately 40 wineries -- predicting it could put at least a third out of business.

By adding a middleman, wineries would have to mark down prices sharply to remain competitive with non-Kentucky labels dominating retail shelves, she said. In some instances, such discounting would squeeze out any chance of profits.

"The more we sell, the more we lose," Allen said.

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A representative for a wholesalers' group dismissed such talk.

"That's a scare tactic," said Dan Meyer, executive secretary and general counsel for the Wine and Spirits Wholesalers of Kentucky. "There's nothing to back that up."

Meyer said wholesalers would assess a "minimal markup" to pick up Kentucky wines and put them in a few retail stores or restaurants near the wineries.

The measure, which is backed by the wholesalers' group, passed the Senate 30-4 in early February and is pending before the House Licensing and Occupations Committee.

Meyer predicted that adding wholesalers to the equation could turn into a financial plus for wineries. With their wide-reaching contacts, the distributors could put more bottles of Kentucky wines on more store shelves, he said.

"I think it's kind of the fear of the unknown," Meyer said in trying to pinpoint resistance among Kentucky wineries to using distributors.

For years, Allen said, some Kentucky wineries came up empty when asking wholesalers to distribute their products. Now, if the bill passes, wineries are worried that distributors will be interested in just a small part of their lineup of wines, and that larger vintners from places like California, France and South America will still get priority, she said.

"If you're selling 100,000 gallons of Gallo and 1,000 or 2,000 gallons of Kentucky wine, which will the distributor put his resources into selling?" she asked.

The Senate-passed bill, and another pending in the House, stem from a U.S. Supreme Court decision last year. The court struck down state laws elsewhere that allowed in-state wineries, but not out-of-state businesses, to ship directly to consumers.

Both Kentucky bills would allow out-of-state wineries to ship to Bluegrass state customers. The Senate bill takes the extra step of requiring Kentucky wineries to go through wholesalers, as is required of out-of-state wineries. Kentucky law now allows in-state wineries to sell directly to retailers if the wine is first offered to wholesalers.

Meyer said the Senate bill would put Kentucky in complete compliance with the Supreme Court ruling. A federal lawsuit filed by Huber Winery in southern Indiana claims out-of-state wineries are treated unfairly by having to go through wholesalers in Kentucky.

Allen, a lawyer, said the high court's ruling didn't deal with the wholesaling issue.

Representatives for the wholesalers and wineries have been talking for months but have been unable to reach agreement.



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